

REMARKSI. Rejections Based on 35 U.S.C. §103(a)

The examiner has rejected Claims 1-23 as being unpatentable over Smith, US 6,173,045 and Shaffer et al, US 5,901,214.

Applicant respectfully submits that Claims 1-23, are not obvious in light of the cited combination of Smith and Shaffer.

Applicant's claimed invention is directed to a method and system for compiling and making available to users a searchable database of cellular phone user names and cellular numbers from data provided by at least one cellular phone provider (Claims 1-21) of wireless type phone numbers, which may include cellular numbers (Claims 22-23).

The Smith patent is directed to a device attached to each user's telephone line which facilitates queries to a telephone company central office. Smith makes no reference whatsoever to using the device to search or locate wireless or cellular numbers.

The Schaeffer patent is directed to a universal database linkage key that is used to correlate data from various independent databases for use by an automated system to intelligently retrieve a wide variety of information relating to incoming phone calls. Although the system of Schaeffer is sufficiently flexible to incorporate cellular phone numbers,

Schaeffer, like Smith, presupposes the existence of a publicly accessible, searchable database of cellular numbers and users in order to incorporate such data. Even today, no such publicly accessible searchable database exists.

Therefore, neither the Smith device nor the Schaeffer system in no way teach how such a database may be compiled from cellular service provider data and subsequently made publicly available.

In order for the combination of Smith and the Schaeffer references cited by the Examiner to satisfy the obviousness requirement, the prior art references must suggest the desirability of the combination. The mere fact that the references may be combined or modified does not in itself render the resultant combination obvious. In re Mills, 916 F.2d 680 (Fed. Cir. 1990). Furthermore, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308 (Fed. Cir. 1999).

In this case, Schaeffer teaches a system of linking information from independent databases. Smith teaches an electronic device to send and receive information to a single telephone central office. As such, both Schaeffer and Smith are non-analogous art that may not be properly be combined as the Examiner proposes.

Accordingly, for the foregoing reasons, Applicant respectfully submits that Claims 1-23 are not obvious in light of the cited combination of Smith and Schaeffer.

II. Conclusion

Applicant respectfully submits that this Amendment, in view of the Remarks offered herein, is fully responsive to all aspects of the objections and rejections tendered by the Examiner in the Office Action. Examiner stated in both the Examiner Interview and the May 27, 2005 Office Action that there is no distinction to be made between compiling a database of cellular phone numbers as compared to non-cellular phone numbers.

Applicant acknowledges that both cellular and non-cellular numbers each comprise 10 digits, and therefore Applicant's claimed invention may potentially be practiced using elements taken from non-cellular directory assistance technology. However, the mere fact than existing technology may be modified for a new use does not render the new use obvious. The similarity between the number of digits in cellular and non-cellular phone number is no more than coincidental. Applicant's claimed invention stands on its own and in no way relies upon any similarity between cellular and non-cellular services or

numbers, or even between similarities between cellular providers themselves.

Applicant respectfully notes the existence of substantial distinctions between traditional and cellular or wireless type services, such as different underlying technologies and infrastructures, business models, markets and market forces, subscriber characteristics and expectations, governmental regulation, and the culture and tradition of the two service types, to name only a few. Cellular phone numbers, email addresses, fax numbers, and Instant Messaging Usernames, are all distinct modes of communication that differ from the standard land line telephone. The presence of these distinctions would be recognized by one of ordinary skill in the art in further support of the non-obviousness of Applicant's claimed invention.

For all of the foregoing reasons, the Applicant respectfully asserts that all claims are patentable over the cited prior art and respectfully requests that these claims be allowed.

If there are any fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

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